

Practice Note 01-10

Land Title and Survey Authority of BC Land Title Division

February 15, 2010

Miscellaneous Notes Endorsements

Background

This Practice Note is being issued to communicate the Land Title Division's practice regarding the endorsement of miscellaneous notes against parcels of land indexed in the land title register.

Miscellaneous notes originated as an informal means of noting land title related information against the land title parcel index for convenient future access by land title staff. Miscellaneous notes have typically included information concerning key plans, Crown and other grant references, statutory right of way ("SRW"), bylaw, easement and covenant plans, posting plans, official plans, survey letters and Agricultural Land Reserve orders.

Initially miscellaneous notes were recorded by adding handwritten notations in the margin of index books. With the creation of Automated Land Title Office System ("ALTOS") in the 1980s, the electronic system provided a means to record these notations as part of the electronic record. However, regardless of the manner of recording them, as there is no provision within the *Land Title Act* for the registrar to collect or record such information, miscellaneous notes do not form part of the land title register.

When miscellaneous notes are recorded against a parcel being subdivided, Examiners of Title have typically spent a considerable amount of time in determining which newly created parcels relate to the existing miscellaneous notes, so that the miscellaneous notes can be carried forward to the new parcels. This task has become increasingly difficult with more complex property development.

In addition, the availability of miscellaneous notes in the electronic record has resulted in confusion as to their purpose and legal effect. Generally, miscellaneous notes were intended for the set of information described above, and not as a general repository for information that cannot otherwise be noted on the title record. It is intended that

consistent practice will help to reduce the frequent misunderstandings which arise from misinterpreting the legal effect of miscellaneous notes.

Practice

Under the practice, miscellaneous notes endorsements are limited to the following four categories:

- posting plans
- SRW plans that have been deposited without a corresponding SRW document
- filing numbers of Official Plans deposited pursuant to s. 59 of the *Land Title Act*
- significant internal land title office information concerning the parcel, such as survey letters and Agricultural Land Reserve orders

The reason that the above endorsements are made is that there is no mechanism for them to appear on title, none of these items constitutes an interest in land, and the parcel index is the appropriate mechanism against which such information can be recorded. Existing miscellaneous notes information, and access to that information, will remain unchanged.

Additional Note Regarding Charge Plans

The relationship between miscellaneous notes and plans lodged in support of registered charges merits particular attention. In order to identify plans that have been lodged in support of a registered charge, one must search the title and the relevant registered charges. This approach will ensure a complete investigation of charge-related plans. While miscellaneous notes may contain plan information relating to a registered charge, one cannot rely on miscellaneous notes as a comprehensive means of identifying all charge related plans pertaining to a particular title.

Frequently, charge plans are identified in the “charge remarks” noted against a charge. Such notations are made when the charge encumbers an area less than the entire parcel, which area is defined by the referenced plan. However, not all charge plans are identified in charge remarks. For example, a single covenant or SRW document may charge part of the lands as defined by a reference or explanatory plan, but might also include a further charge over the remainder of the lands. This situation is common, particularly with SRWs where there is a grant for a specific purpose over an “SRW area” defined on a plan, in addition to a further grant of access rights over the remainder of the lands. This circumstance will result in the SRW being endorsed on title as a charge over all of the land, and there will be no reference to the SRW plan in the “charge remarks” on title. Similarly, easements and leases will have an associated plan noted in the “charge remarks” only when the interest does not charge the entire lands.



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